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3 Eastern District of Washington  
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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Aug 25, 2021

SEAN F. McAVOY, CLERK

6 UNITED STATES DISTRICT COURT  
7 FOR THE EASTERN DISTRICT OF WASHINGTON

8 UNITED STATES OF AMERICA,  
9 Plaintiff,

10 v.

11 NOE RUBIO-FARIAS,  
12 Defendant.

NO. 1:21-CR-02009-SAB-1

PLEA AGREEMENT

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14  
15 Plaintiff United States of America, by and through Joseph H. Harrington, Acting  
16 United States Attorney, and Ian L. Garriques, Assistant United States Attorney, for the  
17 Eastern District of Washington, and Defendant Noe Rubio-Farias (hereinafter  
18 "Defendant"), and the Defendant's counsel, Gregory L. Scott, agree to the following  
19 Plea Agreement:

20 1. Guilty Plea and Maximum Statutory Penalties:

21 The Defendant agrees to plead guilty to the Information Superseding Indictment,  
22 charging the Defendant with Carrying a Firearm During and in Relation to a Drug  
23 Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A). The Defendant understands  
24 that the maximum statutory penalties for the preceding offense is not less than 5 years of  
25 imprisonment and not more than life imprisonment; a fine of up to \$250,000; not more  
26 than 5 years of supervised release; a \$100 special assessment; and loss of certain federal  
27 benefits.

28 The Defendant understands that a violation of a condition of supervised release  
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1 carries an additional penalty of re-imprisonment for all or part of the term of supervised  
2 release without credit for time previously served on post-release supervision.

3 2. Video Proceedings:

4 Pursuant to this Court's General Order 20-101-3 (eff. March 30, 2020), and any  
5 extensions thereof, and Section 15002(b) of the CARES Act, Pub. L. No. 116-136 (H.R.  
6 748) (eff. March 27, 2020), the Defendant agrees to the use of video conferencing (or  
7 telephone conferencing if video conferencing is not reasonably available) for any  
8 eligible hearings listed in Section 15002(b) of the CARES Act, including any felony plea  
9 hearing and sentencing.

10 3. Court is Not a Party to the Agreement:

11 The Court is not a party to this Plea Agreement and may accept or reject this Plea  
12 Agreement. Sentencing is a matter that is solely within the discretion of the Court. The  
13 Defendant understands that the Court is under no obligation to accept any  
14 recommendations made by the United States and/or by the Defendant; that the Court will  
15 obtain an independent report and sentencing recommendation from the U.S. Probation  
16 Office; and that the Court may, in its discretion, impose any sentence it deems  
17 appropriate up to the statutory maximums stated in this Plea Agreement.

18 The Defendant acknowledges that no promises of any type have been made to the  
19 Defendant with respect to the sentence the Court will impose in this matter. The  
20 Defendant understands that the Court is required to consider the applicable sentencing  
21 guideline range but may depart upward or downward under the appropriate  
22 circumstances.

23 The Defendant also understands that should the sentencing judge decide not to  
24 accept any of the parties' recommendations, that decision is not a basis for withdrawing  
25 from this Plea Agreement or a basis for withdrawing this plea of guilty.

26 4. Denial of Federal Benefits:

27 The Defendant understands that by entering this plea of guilty the Defendant is no  
28 longer eligible for assistance under any state program funded under part A of title IV of

1 the Social Security Act (concerning Temporary Assistance for Needy Families) or  
2 benefits under the food stamp program or any state program carried out under the Food  
3 Stamp Act. 21 U.S.C. § 862a. Further, the Court may deny the Defendant's eligibility  
4 to any grant, contract, loan, professional license, or commercial license provided by an  
5 agency of the United States or by appropriated funds of the United States. 21 U.S.C. §  
6 862.

7 5. Waiver of Constitutional Rights:

8 The Defendant understands that by entering this plea of guilty the Defendant is  
9 knowingly and voluntarily waiving certain constitutional rights, including:

- 10 a. The right to a jury trial;  
11 b. The right to see, hear and question the witnesses;  
12 c. The right to remain silent at trial;  
13 d. The right to testify at trial; and  
14 e. The right to compel witnesses to testify.

15 While the Defendant is waiving certain constitutional rights, the Defendant  
16 understands the Defendant retains the right to be assisted through the sentencing and any  
17 direct appeal of the conviction and sentence by an attorney, who will be appointed at no  
18 cost if the Defendant cannot afford to hire an attorney.

19 6. Elements of the Offense:

20 The United States and the Defendant agree that in order to convict the Defendant  
21 of Carrying a Firearm During and in Relation to a Drug Trafficking Crime, in violation of  
22 18 U.S.C. § 924(c)(1)(A), as charged in the Information Superseding Indictment, the  
23 United States must prove beyond a reasonable doubt the following elements:

- 24 (1) the Defendant committed a drug trafficking crime, to wit, distribution of a mixture  
25 and substance containing a detectable amount of fentanyl; and  
26 (2) the Defendant knowingly carried a firearm during and in relation to that

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1 crime.

2 9th Cir. Model Instruction 8.71 (2010) (modified).

3 7. Factual Basis and Statement of Facts:

4 The United States and the Defendant stipulate and agree that the following facts  
5 are accurate; that the United States could prove these facts beyond a reasonable doubt at  
6 trial; and these facts constitute an adequate factual basis for the Defendant's guilty plea:

7 Between June and December, 2020, DEA used a confidential source (CS) to  
8 conduct six separate controlled purchases of methamphetamine and/or fentanyl-laced  
9 pills from Noe RUBIO-FARIAS in Yakima, WA. The buys occurred on June 18, July 8,  
10 August 25, October 7, November 5, and December 8, 2020. During each controlled  
11 purchase, agents surveilled the transactions, while the CS was equipped with an audio  
12 and video recording device. According to the CS, RUBIO-FARIAS possessed a firearm  
13 during five of the controlled purchases of narcotics above.

14 During a buy of fentanyl laced pills on October 7, 2020, the CS – at agent  
15 direction – asked RUBIO-FARIAS about purchasing a firearm from RUBIO-FARIAS.  
16 On November 2, 2020, RUBIO-FARIAS told the CS during a recorded Spanish phone  
17 call that RUBIO-FARIAS had sold a firearm to a friend, but would try to buy it back and  
18 sell it to the CS.

19 On November 5, 2020, the CS purchased approximately 300 fentanyl laced pills  
20 from RUBIO-FARIAS for \$2,100.00, as well as, a silver colored revolver with a black  
21 handle for \$600.00, in Yakima, WA. RUBIO-FARIAS drove from his residence to the  
22 meet location and sold the CS a Weihrauch Windicator, .357 caliber revolver, bearing  
23 serial number 1761795, and approximately 300 fentanyl laced pills weighing  
24 approximately 91.4 grams.

25 On January 21, 2021, DEA agents arrested RUBIO-FARIAS after he attempted to  
26 sell the CS 1,000 fentanyl laced pills in Yakima, WA, which were later seized. Based on  
27 the 6 buys above and his arrest, RUBIO-FARIAS distributed and/or possessed with  
28 intent to distribute approximately 1,234.7 grams of methamphetamine and 2,600

1 fentanyl laced pills.

2 This statement of facts does not preclude either party from presenting and arguing,  
3 for sentencing purposes, additional facts which are relevant to the guideline computation  
4 or sentencing, unless otherwise prohibited in this agreement.

5 8. The United States Agrees:

6 a. Not to File Additional Charges:

7 The United States Attorney's Office for the Eastern District of Washington agrees  
8 not to bring any additional charges against the Defendant based upon information in its  
9 possession at the time of this Plea Agreement and arising out of Defendant's conduct  
10 involving illegal activity charged in the Indictment and the Information Superseding  
11 Indictment, unless the Defendant breaches this Plea Agreement any time before or after  
12 sentencing.

13 b. Dismissal of Charges:

14 Following sentencing and pursuant to Fed. R. Crim. P. Rule 48(a), the United  
15 States agrees to move to dismiss, as to the Defendant, the charges in the Indictment filed  
16 on February 9, 2021. The Defendant understands and agrees that the U.S. Probation  
17 Office and the Court may still consider the conduct underlying any dismissed charges in  
18 determining relevant conduct under the Sentencing Guidelines.

19 9. United States Sentencing Guideline Calculations:

20 The Defendant understands and acknowledges that the United States Sentencing  
21 Guidelines (hereinafter "U.S.S.G.") are advisory to this case and that the Court will  
22 determine the Defendant's applicable sentencing guideline range at the time of  
23 sentencing.

24 The guideline sentence is the minimum term of imprisonment required by statute.  
25 U.S.S.G. § 2K2.4(b). Here, the minimum term of imprisonment required by statute is  
26 five (5) years. 18 U.S.C. § 924(c)(1)(A)(i).

27 a. Base Offense Level:

28 The United States and the Defendant agree that pursuant to U.S.S.G. § 2K2.4(b),  
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1 the guideline sentence for Carrying a Firearm During and in Relation to a Drug  
2 Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A), is a minimum term of  
3 imprisonment of five (5) years as required by 18 U.S.C. § 924(c)(1)(A)(i). Furthermore,  
4 pursuant to U.S.S.G. § 2K2.4(b), Chapters Three (Adjustments) and Four (Criminal  
5 History and Criminal Livelihood) of the Sentencing Guidelines shall not apply to a  
6 conviction for Carrying a Firearm During and in Relation to a Drug Trafficking Crime.

7 b. Acceptance of Responsibility:

8 The United States and the Defendant agree that the provisions for acceptance of  
9 responsibility are not applicable.

10 10. Criminal History:

11 The United States and the Defendant agree that no criminal history computations  
12 are necessary, as the sentence is a mandatory minimum period of incarceration,  
13 regardless of the Defendant's criminal history.

14 11. Departures and/or Variances:

15 The United States and the Defendant agree and stipulate to recommend that the  
16 ///  
17 Court impose a sentence of sixty (60) months of imprisonment.

18 12. Incarceration:

19 The United States and the Defendant agree and stipulate to recommend that the  
20 Court impose a sentence of sixty (60) months of imprisonment.

21 13. Criminal Fine:

22 The United States and the Defendant are free to make whatever recommendation  
23 concerning the imposition of a criminal fine that they believe is appropriate.

24 14. Supervised Release:

25 The United States and the Defendant agree to recommend that the Court impose a  
26 term of supervised release of five (5) years and to recommend that the Court impose the  
27 statutorily mandated, standard, and suggested special conditions of supervised release  
28 recommended by the U.S. Probation Office and as set forth in the Presentence

1 Investigation Report.

2 15. Mandatory Special Penalty Assessment:

3 The Defendant agrees to pay the \$100 mandatory special penalty assessment to  
4 the Clerk of Court for the Eastern District of Washington, at or before sentencing,  
5 pursuant to 18 U.S.C. § 3013 and shall provide a receipt from the Clerk to the United  
6 States before sentencing as proof of this payment.

7 16. Administrative Forfeiture:

8 The Defendant, NOE RUBIO-FARIAS, agrees to voluntarily forfeit and  
9 relinquish all right, title, and interest he has in the following listed assets, to the United  
10 States Drug Enforcement Administration (DEA):

- 11 - \$6,093.00 U.S. currency; and,
- 12 - Assorted Designer Handbags and Belts.

13 The Defendant acknowledges that the assets are subject to forfeiture to the United  
14 States pursuant to 21 U.S.C. § 853 and/or 21 U.S.C. § 881, as facilitating property and/or  
15 as property constituting proceeds obtained directly or indirectly from violation(s) of 21

16 ///

17 U.S.C. § 841.

18 The Defendant agrees not to contest the forfeiture of the above-listed assets in any  
19 administrative forfeiture proceedings initiated against said assets by DEA, and hereby  
20 agrees to execute any and all forms, documents, and pleadings, if necessary, to  
21 effectuate the forfeiture of the assets. Defendant consents to the forfeiture of said assets  
22 without further notice of forfeiture proceedings.

23 The Defendant agrees to hold all law enforcement agents and the United States, its  
24 agents, and its employees harmless from any claims whatsoever arising in connection  
25 with the seizure, forfeiture, and disposal of any assets included in this plea agreement.

26 17. Payments While Incarcerated:

27 If the Defendant lacks the financial resources to pay the monetary obligations  
28 imposed by the Court, the Defendant agrees to earn the money to pay toward these



1 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility  
2 Program.

3 18. Additional Violations of Law Can Void Plea Agreement:

4 The Defendant and the United States agree that the United States may at its option  
5 and upon written notice to the Defendant, withdraw from this Plea Agreement or modify  
6 its recommendation for sentence if, prior to the imposition of sentence, the Defendant is  
7 charged or convicted of any criminal offense whatsoever or if the Defendant tests  
8 positive for any controlled substance.

9 19. Hyde Amendment Waiver:

10 The Defendant waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A  
11 (Statutory Note), for attorney's fees and other litigation expenses arising out of the  
12 investigation or prosecution of this matter.

13 20. Effect on Immigration Status:

14 The Defendant recognizes that pleading guilty may have consequences with  
15 respect to his immigration status if he is not a citizen of the United States. Under federal  
16 law, a broad range of crimes are removable offenses, including the offense to which the  
17 Defendant is pleading guilty. Indeed, due to the charge to which Defendant is pleading  
18 guilty, removal is presumptively mandatory. Removal and other immigration  
19 consequences are the subject of a separate proceeding, however, and Defendant  
20 understands that while deportation and/or removal appears to be a virtual certainty, no  
21 one, including her attorney or the Court, can predict with absolute certainty the effect of  
22 his conviction on his immigration status. Defendant nevertheless affirms that he wants  
23 to plead guilty regardless of any immigration consequences that his plea may entail,  
24 even if automatic removal from the United States is a virtual certainty.

25 21. Appeal Rights:

26 The Defendant expressly waives his right to appeal any aspect of his conviction  
27 and sentence imposed by the Court in this case. Furthermore, the Defendant expressly  
28 waives his right to file any post-conviction motion attacking his conviction and sentence,



1 including a motion pursuant to 28 U.S.C. § 2255, except one based upon ineffective  
2 assistance of counsel based on information not now known by Defendant and which, in  
3 the exercise of due diligence, could not be known by Defendant by the time the Court  
4 imposes the sentence.

5 The Defendant acknowledges that this waiver shall result in the dismissal of any  
6 appeal or collateral attack the defendant might file challenging the conviction or  
7 sentence in this case, except for ineffective assistance of counsel as noted above. If the  
8 Defendant files a notice of appeal, a habeas petition, or other collateral attack,  
9 notwithstanding this agreement, the Defendant agrees that this case shall, upon motion  
10 of the government, be remanded to the district court to determine whether Defendant is  
11 in breach of this agreement and, if so, to permit the government to withdraw from the  
12 Plea Agreement.

13 22. Waiver of Inadmissibility of Statements:

14 The Defendant agrees to waive the inadmissibility of statements made in the  
15 course of plea discussions with the United States, pursuant to Fed. R. Crim. P. 11(f).  
16 This waiver shall apply if the Defendant withdraws this guilty plea or breaches this Plea  
17 Agreement. The Defendant acknowledges that any statements made by the Defendant to  
18 law enforcement agents in the course of plea discussions in this case would be  
19 admissible against the Defendant in the United States' case-in-chief if the Defendant  
20 were to withdraw or breach this Plea Agreement.

21 23. Integration Clause:

22 The United States and the Defendant acknowledge that this document constitutes  
23 the entire Plea Agreement between the United States and the Defendant, and no other  
24 promises, agreements, or conditions exist between the United States and the Defendant  
25 concerning the resolution of the case. This Plea Agreement is binding only upon the  
26 United States Attorney's Office for the Eastern District of Washington, and cannot bind

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1 other federal, state or local authorities. The United States and the Defendant agree that  
2 this agreement cannot be modified except in a writing that is signed by the United States  
3 and the Defendant.

4  
5 **Approvals and Signatures**


6 Agreed and submitted on behalf of the United States Attorney's Office for the  
7 Eastern District of Washington.

8 Joseph H. Harrington  
9 Acting United States Attorney

10   
11 Ian L. Garriques  
12 Assistant United States Attorney

13   
14 Date

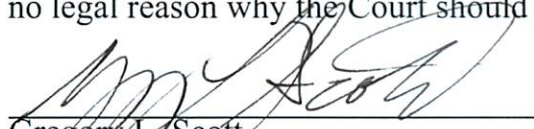
15 I have read this Plea Agreement or have had this Plea Agreement read to me. I  
16 have carefully reviewed and discussed every part of the Plea Agreement with my  
17 attorney. I understand and voluntarily enter into this Plea Agreement. Furthermore, I  
18 have consulted with my attorney about my rights, I understand those rights, and I am  
19 satisfied with the representation of my attorney in this case. No other promises or  
20 inducements have been made to me, other than those contained in this Plea Agreement,  
21 and no one has threatened or forced me in any way to enter into this Plea Agreement. I  
22 am agreeing to plead guilty because I am guilty.

23   
24 Noe Rubio-Farias  
25 Defendant

26   
27 Date

28 I have read the Plea Agreement and discussed its contents with my client. If my  
client was unable to personally read the Plea Agreement prior to his plea hearing due to  
COVID-19 restrictions, I read the Plea Agreement to my client. The Plea Agreement  
accurately and completely sets forth the entirety of the agreement between the parties. I

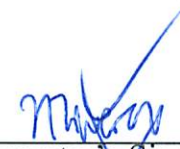
1 concur in my client's decision to plead guilty as set forth in the Plea Agreement. There is  
2 no legal reason why the Court should not accept the Defendant's plea of guilty.

3  
4   
Gregory L. Scott  
Attorney for the Defendant

25 Aug 2021  
Date

6 I hereby certify that I have read and translated the entire foregoing document to the  
7 Defendant in a language with which the Defendant is conversant. If questions have  
8 arisen, I have notified the Defendant's counsel of the questions and have not offered or  
9 given legal advice or personal opinions.

10  
11 Natalia Rivera  
Interpreter's Printed Name

12   
Interpreter's Signature

8/25/2021  
Date